

DISCLAIMER

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JOINT APPLICATION OF

**GROUNDHOG MTN. PROPERTY
OWNERS, INC.**

CASE NO. PUE990814

and

**GROUNDHOG MTN. WATER &
SEWER COMPANY, INC.**

**For authority to acquire and to dispose of utility
assets pursuant to the Transfers Act and
for certificates of public convenience and
necessity pursuant to §§ 56-265.2 and 56-265.3**

HEARING EXAMINER'S RULING

April 18, 2001

On April 11, 2001, the Commission issued an Order for Notice and Hearing in the captioned proceeding. Among other things, the Order scheduled a public hearing on July 17, 2001, in the Commission's courtroom in Richmond, Virginia, and established notice requirements.

On April 16, 2001, the joint applicants, Groundhog Mtn. Property Owners, Inc., and Groundhog Mtn. Water & Sewer Company, Inc. (collectively, "Applicants"), by counsel, filed a motion requesting that the public hearing be held in the City of Roanoke, Virginia. In support of the request, the Applicants state that they have been overwhelmed by the complexity and protracted nature of the application process, and have not budgeted for the unexpected costs of legal fees, expert witnesses, and travel costs. Applicants further state that they have plans for needed capital improvements to the water and sewer systems, and have limited financial resources with which to accomplish the system improvements. Applicants argue that conduct of the public hearing in Richmond will impose a financial hardship on the Applicants, and request that the hearing be conducted in available public facilities in the City of Roanoke.

Good cause having been shown, I find the motion should be granted and the Commission's Order for Notice and Hearing should be modified. Accordingly,

IT IS DIRECTED THAT:

(1) Ordering paragraph (2) of the Commission's April 11, 2001, Order be modified to read as follows:

(2) A public hearing for the purpose of receiving evidence relevant to the application is hereby scheduled before a Hearing Examiner at

10:00 a.m. on July 17, 2001, in the Roanoke City Council Chamber, Noel C. Taylor Municipal Building, Room 456, 215 Church Avenue, S.W., Roanoke, Virginia.

(2) Ordering paragraph (5) of the Commission's April 11, 2001, Order shall be modified to read as follows:

(5) On or before May 10, 2001, Applicants shall mail the following notice (bill inserts are acceptable) to all of their customers in Patrick and Carroll Counties, Virginia:

NOTICE OF JOINT APPLICATION OF GROUNDHOG
MTN. PROPERTY OWNERS, INC., AND GROUNDHOG
MTN. WATER & SEWER COMPANY, INC., FOR
AUTHORITY TO ACQUIRE AND TO DISPOSE OF
UTILITY ASSETS PURSUANT TO THE TRANSFERS ACT
AND FOR CERTIFICATES OF PUBLIC CONVENIENCE
AND NECESSITY
CASE NO. PUE990814

Groundhog Mtn. Property Owners, Inc. ("GMPO"), and Groundhog Mtn. Water and Sewer Company, Inc. ("GMW&S") (collectively, the "Applicants"), completed their application initially filed on December 13, 1999, and subsequently amended on March 14, 2000. In their application, GMPO and GMW&S request authority pursuant to Chapter 5 of Title 56 of the Code of Virginia, the Transfers Act, for GMW&S to acquire and for GMPO to dispose of GMPO's water and sewer facility assets pursuant to a license agreement between the Applicants. Pursuant to that license agreement, GMW&S will have the sole right to occupy and to use all of GMPO's water and sewer assets to provide water and sewer service to the residents of the Groundhog Mountain, Doe Run, Buck Hollow, and Groundhog Hill Subdivisions located in Patrick and Carroll Counties, Virginia (the "Subdivisions"). The Applicants also request, pursuant to §§ 56-265.2 and 56-265.3, certificates of public convenience and necessity to acquire the above-referenced assets and to provide water and sewer service to residents of the Subdivisions. In addition, the Applicants request approval of GMW&S' proposed rates, rules, and regulations of service detailed in its application and the Commission's Order dated January 9, 2001.

A public hearing to receive evidence relevant to GMPO's and GMW&S' application will be convened at 10:00 a.m. on July 17, 2001, before a Hearing Examiner in the Roanoke City Council Chamber, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Room 456, Roanoke, Virginia 24011-1536.

A copy of the application, together with copies of any materials subsequently filed, is available for public inspection during regular business hours at the Hillsville Library, 101 Beaverdam Road, Hillsville, Virginia 24343. The application and above-referenced materials are also available for public inspection Monday through Friday, 8:15 a.m. to 5:00 p.m., at the State Corporation Commission, Document Control Center, Tyler Building, First Floor, 1300 East Main Street, Richmond, Virginia. Interested persons also may obtain a copy of the Commission's Order for Notice and Hearing setting forth the complete procedural schedule from the Commission's Web site, www.state.va.us/scc/caseinfo/orders.htm.

On or before May 24, 2001, any person desiring to submit evidence, cross-examine witnesses, or otherwise participate in the proceeding as a Protestant as defined in Rule 4:6 of the Commission's Rules of Practice and Procedure ("Rules"), 5 VAC 5-10-180, shall file with the Clerk of the Commission, at the address set forth below, an original and seven (7) copies of a Notice of Protest as provided in Rule 5:16(a), and shall serve a copy of the same on counsel for the Applicants as follows: Wilburn C. Dibling, Jr., Esquire, Gentry Locke Rakes & Moore, P.O. Box 40013, Roanoke, Virginia 24022-4013.

PLEASE TAKE NOTICE that while the total revenue requirement that may be approved is limited to the amount of revenue produced by the Company's proposed rates, individual rates and charges approved by the Commission may be either higher or lower than those proposed by the Company.

Any person participating as a Protestant pursuant to Rule 4:6 shall file with the Clerk of the Commission, on or before June 5, 2001, an original and seven (7) copies of its Protest as provided in Rule 5:16 (b), 5 VAC 5-10-420 C, together with the prepared testimony and exhibits it intends to present at the hearing, and shall simultaneously serve a copy thereof on the Applicants' counsel and to any other Protestants. Any corporate entity that wishes to submit evidence, cross-examine witnesses, or otherwise participate as a Protestant must be represented by legal counsel in accordance with the requirement of Rule 4:8 of the Commission's Rules, 5 VAC 5-10-210.

Any person desiring to make a statement at the public hearing concerning the above-referenced application need only appear in the Roanoke City Council Chamber at 9:45 a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's bailiff.

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at least seven (7) days before the scheduled hearing date at 1-800-552-7945 (Voice) or 1-804-371-9206 (TDD).

All written communications to the Commission concerning GMPO's and GMW&S' application should be directed to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and should refer to Case No. PUE990814.

GROUNDHOG MTN. PROPERTY OWNERS, INC., AND
GROUNDHOG MTN. WATER & SEWER COMPANY, INC.

(3) The Applicants shall forthwith serve a copy of the Commission's April 11, 2001, Order for Notice and Hearing and this Ruling on the Chairman of the Board of Supervisors of any county and upon the Mayor or Manager of any county, city, or town (or equivalent officials in counties, towns, and cities having alternate forms of government) lying within their proposed service territory. Service shall be made by first-class mail or delivery to the customary place of business or residence of the person served.

(4) At the commencement of the hearing scheduled herein, the Applicants shall provide to the Examiner proof of the notice and service required by ordering paragraphs (2) and (3); and

(5) In all other respects, the Commission's April 11, 2001, Order for Notice and Hearing shall remain in full force and effect.

Michael D. Thomas
Hearing Examiner